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Seventy-second session

SUMMARY RECORD OF THE 1936th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 13 July 2001, at 3 p.m.

Chairperson: Mr. BHAGWATI

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 5) (continued)

Initial report of Monaco (continued) (CCPR/C/MCO/99/1; CCPR/C/72/L/MCO)

1. At the invitation of the Chairperson, the members of the delegation of Monaco resumed their places at the Committee table.

2. The CHAIRPERSON invited the delegation of Monaco to continue to respond to the oral questions asked by members of the Committee.

3. Mr. FAUTRIER (Monaco) said that freedom of association was governed by a law of 27 June 1984, under which associations of Monegasque nationals could be formed by means of a declaration and associations composed either wholly or in part of foreign citizens could be set up by applying for a permit. Such permits were granted as a matter of course, and he knew of no cases in which a permit had been refused.

4. The CHAIRPERSON invited the delegation of Monaco to reply to questions 12 to 21 of the list of issues, relating to the limits and conditions of pre-trial detention; recruitment and discipline in the police force; measures guaranteeing the independence and impartiality of the judiciary; measures of refoulement of undesirable aliens; the guarantees set out in article 18 of the Covenant; the right to form or join trade unions and the right to strike; guarantees to ensure the free expression of the will of the electorate during elections; legal provisions applicable to the media; the dissemination of the initial report; and the training of the judiciary and public officials in the application of rights under the Covenant.

5. Mr. SACOTTE (Monaco), replying to question 12 (pre-trial detention), said that under a law of 13 January 1998, which had been incorporated into the Code of Criminal Procedure, the normal legal limit for pre-trial detention was a renewable period of two months. Detainees could request their release at any time, and the investigating judge was required to reply to such requests within 10 days. Refusals were subject to the right of appeal to the indictment division of the Court of Appeal. There was no legal limit to the number of times that pre-trial detention could be extended, although it was very rare for the total period of detention to exceed 12 months. He knew of only two cases in the past 13 years in which suspects had been kept in pre-trial detention for over two years, both of which involved extremely serious and complex crimes. The first was a case of fraud in connection with a number of multinational companies, and the second a money laundering operation linked to international drug trafficking. In both cases, the length of detention was due to the difficulty of gathering evidence in various countries including Italy, Brazil, Germany, Russia and France. The period of pre-trail detention had been taken into account in calculating the eventual prison sentences for the persons involved in both cases, and those sentences amounted to 5 and 13 years respectively. Lastly, release on bail was provided for by articles 192 to 200 of the Code of Criminal Procedure, and was becoming an increasingly common practice.

6. Mr. FAUTRIER (Monaco), replying to question 13 (recruitment and discipline in the police force), said that police officers were recruited by open competitions held on an annual basis to fill existing vacancies. Successful applicants satisfied a range of moral, physical and intellectual criteria. Police superintendents were either recruited internally or assigned from France. With regard to discipline, the legal status of police officers was the same as that of other public officials under the law of 12 July 1975 and its implementing regulations of 17 August 1978. A detailed pamphlet dealt with the application of disciplinary measures to police officers in particular. The Police Court was an ordinary court, with a single judge, for minor offences committed by police officers. It had the authority to impose prison sentences not exceeding five days or fines not exceeding 4,000 francs. Contrary to what was mistakenly suggested in Monaco's third reservation to the Covenant, judgements issued by the Police Court were subject to the right of appeal. While law enforcement was primarily the State's responsibility, there were exceptional circumstances in which certain specific security services were provided by private militias. There were currently three such militias in Monaco, the activities of which were governed by articles 58 et seq. of the Code of Criminal Procedure. The Government was in the process of developing specific draft regulations on security firms, given the growing importance of the sector.

7. Mr. SACOTTE (Monaco), in reply to question 14 (independence and impartiality of the judiciary), said that the independence of the judiciary was guaranteed by article 88 of the Constitution, and that various laws, including that of 15 July 1965, governed the organization of the courts. Judges were appointed by the Prince, on the recommendation of the Government, which was in turn based on the recommendation of the directeur des services judiciaires (director of the judiciary). The latter had the powers of a government minister, without belonging to the Government. The judiciary was thus fully independent. Judges were required to have at least the same level of training as lawyers, which was generally acquired in the Ecole nationale de la magistrature (National Legal Service College) in France, since there was no university in Monaco. The impartiality of the judiciary was guaranteed by numerous provisions, and in particular by the fact that, with the exception of the courts for minor offences, no judge had sole responsibility for taking decisions. Decisions were always subject to the right of appeal in a court of second or even third instance. There was furthermore a Court of Cassation, composed of retired judges from the French Court of Cassation.

8. The presumption of innocence was enshrined in national law by virtue of the Universal Declaration of Human Rights, which took precedence over domestic legislation. Lastly, Monaco had made efforts to comply with the obligations arising from article 14, paragraph 6, since well before the Covenant had been signed. Contrary to what was stated in paragraph 136 of the report, the Code of Criminal Procedure contained numerous provisions concerning compensation for miscarriages of justice.

9. Mr. FAUTRIER (Monaco), replying to question 15 (measures of refoulement), said that the Minister of State had the power to employ measures of refoulement or deportation, and according to bilateral agreements with France, any individual made subject to such measures in France would also be refused entry into Monaco. The case law of the Supreme Court was constantly evolving, but the fact remained that the Minister of State was not required to justify the use of such measures. Draft legislation to change that situation had been prepared in

response to a request from the Council of Europe following Monaco's accession to that organization. Statistics concerning measures of refoulement showed that the number of cases had not risen over the previous five years. There had been 115 cases in 1997, and 78 so far in 2001. There had been no deportations in the first half of 2001, and only one in 2000.

10. In reply to question 16 (guarantees under article 18), he said that article 23 of the Constitution guaranteed freedom of worship, and that Catholic religious education in schools was entirely optional.

11. Replying to question 17 (trade unions), he said that article 28 of the Constitution guaranteed the right to form or join trade unions. Membership was subject to no restrictions on grounds of nationality. Restrictions were set out in the law of 1944, and included the requirement that members practise the same or similar professions, and a ban on belonging to more than one trade union at the same time. Federations of employers and employees had been set up to facilitate social dialogue. The right to strike was guaranteed by the Constitution and the laws of February 1952 and July 1980. Strikes were permitted only to defend the rights of employees in a given profession, and there were restrictions on go-slow strikes. In sectors in which a public service was provided, a minimum service had to be maintained during strikes. A very effective system of arbitration had made it possible to avoid conflicts in most cases in recent years.

12. In reply to question 18 (free expression of the will of the electorate), he said that no particular body was currently responsible for ensuring the smooth functioning of the electoral process. Elections took place in a single constituency and in a single polling station. Freedom of expression was guaranteed throughout the process in various ways, including the possibility for a candidate's right to stand for election to be challenged by any member of the electorate, and the provision for cost reimbursements to candidates who received at least 5 per cent of the vote.

13. The Council of Europe had called for an amendment to the Law on national and communal elections to ensure pluralism of representation, arguing that the existing majority party list system failed to ensure pluralism. A bill introducing a mixed system of majority and proportional representation was currently before the National Council and would probably be passed in the near future.

14. Mr. SACOTTE (Monaco), replying to question 19 on legal provisions applicable to the media, said that the only legislation in force was the 1910 Law on freedom of the press. No prior authorization was required to publish a newspaper. The publisher was merely required to submit a declaration accompanied by two copies of each issue to the Office of the Principal Public Prosecutor and the National Library. The Law specified the responsibilities of newspaper proprietors and the remedies available to persons whose reputation was challenged by the press. In many respects, however, the Law was obsolete and a new bill before the National Council was likely to be adopted within the next week or two. The Government was also drafting a bill on the audiovisual media and telecommunications that would be submitted to the National Council by the end of the year. No decision had yet been taken on how to regulate the Internet. It was not covered by either of the two bills he had just mentioned in their present form.

15. It should be borne in mind that Monaco controlled only a relatively small proportion of the press and other media in the Principality because of the wide availability and coverage of, in particular, the French and Italian media.

16. Mr. FAUTRIER (Monaco), replying to question 20, said that the initial report would not be publicized until the Committee had issued its concluding observations on the content. It would then be the subject of a press release and would be published on the Internet, made available in the Administrative Information Centre and probably discussed throughout Monaco's education system.

17. Mr. SACOTTE (Monaco), replying to question 21, said that members of the judiciary were trained in France by the Ecole nationale de la magistrature (National Legal Service College). Students at the College and serving judges were required to attend courses at the European Court of Human Rights and would no doubt welcome the chance to attend any comparable training courses organized by the United Nations system. The training of public officials depended on their future field of service. Senior public officials received human rights training during their university studies. Police officers received special human rights training because they were confronted with human rights issues in their daily work.

18. Mr. KLEIN, noting from paragraph 94 of the report that convicted persons serving long sentences were transferred to French prisons, asked how Monaco ensured that those persons' rights under the Covenant continued to be protected.

19. Referring to paragraph 104, he was surprised to note that a law entailing the penalty of "exile" was still on the statute book. Was it applicable only to foreigners or to citizens of Monaco too? If so, it would constitute a breach of article 12, paragraph 4, of the Covenant.

20. If the statement in paragraph 136 of the report that there was no provision for compensation for miscarriages of justice was accurate, it meant that Monaco was in breach of article 14, paragraph 6, of the Covenant. Was there any provision for compensation of victims of unlawful arrest or detention, as required by article 9, paragraph 5?

21. He asked whether the new legislation governing the mass media might prompt Monaco to withdraw the interpretative declaration concerning article 19 it had made on ratifying the Covenant. In any case, the wording of the declaration ("it considers article 19 to be compatible" with the existing system in Monaco) should, in his view, be reversed: domestic law should be deemed to be compatible with article 19. What were the implications of the declaration for the privately owned media? If they were not covered by Monegasque law, were the authorities contemplating a change in their legal status?

22. Turning to paragraph 151 of the report, he asked whether the restrictions on freedom of expression to safeguard general interests were compatible with article 19, paragraph 3, of the Covenant, especially the provision that they should "be necessary", in other words in keeping with the principle of proportionality.

23. According to paragraph 182, a mother could place her child with the welfare services at birth and ask that the birth be kept secret. Would the child be able to trace the identity of his or her natural parents later in life or were the records destroyed?

24. Mr. VELLA asked whether arrested persons were informed of their right to remain silent and cautioned that any statement might be used as evidence against them, and whether they had access to a lawyer from the beginning of the investigation process and were allowed to contact family members immediately after their arrest.

25. Referring to paragraph 115 of the report, he said he would welcome clarification of the statement that in criminal cases proceedings took place in camera if public proceedings would appear to endanger public order or morals. Such cases should, as a rule, be heard in public for the sake of transparency.

26. With reference to paragraph 116, he asked under what circumstances the prosecution would feel justified in discarding the presumption of innocence. Was a certain level of probability or moral certainty required?

27. Referring to paragraph 120, which stated that a person arrested while committing an offence (in flagrante delicto) should have the right to request time to prepare his or her defence, he asked for confirmation that the right to prepare their defence was enjoyed by all arrested persons.

28. He found it difficult to reconcile paragraph 129 of the report with the requirement in article 14, paragraph 3 (e), of the Covenant regarding the examination of witnesses. He would appreciate additional information about the procedure for examination and cross-examination of witnesses in a criminal trial, for example the right of the accused to challenge the credibility of a witness for the prosecution.

29. Lastly, he asked the delegation to explain the statement in paragraph 131 that an accused person could not take an oath. Did that mean that an accused person could not give evidence in his or her own defence under oath?

30. Mr. AMOR asked the delegation to provide statistical data concerning religions and beliefs other than Catholicism. What was Monaco's attitude to new religious movements and beliefs? Were there movements, for example, that had sought refuge in Monaco from persecution in other countries? Although religious education was ostensibly optional, it had been reported that non-Catholic children who did not attend religious education classes were occasionally made to feel like the "black sheep" of the class.

31. He inquired about the number of cases in which compensation had been awarded for the "arbitrary acts" undermining individual freedom mentioned in paragraph 89 of the report.

32. Referring to paragraph 104, he joined Mr. Klein in expressing surprise at the survival of a penalty such as exile (bannissement) in the statutes. He assumed that it was applied only to

Monegasque nationals. Noting that 80 per cent of the population were foreigners, many of them long-term residents, he asked whether there was a strong interest in naturalization, especially since the law drew a clear distinction in many areas between nationals and non-nationals.

33. According to paragraphs 106 and 107 of the report, a foreigner having an unfavourable reputation or likely to disturb public order could be expelled by an administrative measure that did not have to be substantiated. An appeal could be lodged with the courts but the charge of "having an unfavourable reputation" left the door wide open to subjective and arbitrary decisions.

34. A distinction was made between nationals and non-nationals in respect of freedom of assembly and freedom of association, which were also subject to various restrictions set forth in the interpretative declaration regarding articles 21 and 22. He asked for details of the criteria that might be invoked to withhold permission from non-nationals wishing to exercise those rights.

35. Referring to paragraph 175 of the report concerning free primary and secondary education for all inhabitants of the Principality, he cited reports of discrimination between nationals and non-nationals in that area and in the area of social protection of children. For example, he had heard of cases of foreign children under the age of 16 who were already in employment.

36. Ms. CHANET associated herself with Mr. Vella's question regarding the rights of arrested persons. Referring to the statement in paragraph 87 of the report that pre-trial detention was the exception and liberty the rule, she asked whether the Code of Criminal Procedure specified the circumstances in which a person should be held in pre-trial detention. Was there provision for a hearing of both parties - the accused or his or her counsel and the public prosecutor - before the investigating judge? To what extent were the documents pertaining to the case communicated to counsel for the defence and under what circumstances were the decisions of the judge or the public prosecutor subject to appeal?

37. She pointed out that article 27 did not concern national minorities but linguistic and religious minorities. In that connection, she asked whether persons belonging to religions other than Catholicism had their own places of worship and whether they were provided with all necessary facilities to practise their religion.

38. Mr. HENKIN said he had been struck by the fact that no mention had been made of the requirement of non-refoulement under the circumstances specified in, for example, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Was the risk of being subjected to torture taken into account when the Government of Monaco expelled a foreigner?

39. He wished to know whether all religions were treated equally in economic terms. Would non-Catholics, for example, have to pay for religious education?

40. Mr. RIVAS POSADA welcomed the delegation's assurances that action was being taken to update obsolete legislation and bring it into line with the State party's international obligations. In particular, he was pleased to hear that the administrative authorities would henceforth be required to state the reason for any decision to expel a foreigner from Monaco, which would make it easier for the victim of an expulsion order to lodge an appeal.

41. The State religion was Roman Catholicism. Were there educational establishments belonging to any other religion, and were there any differences in the treatment of Roman Catholic schools, schools belonging to other religions, and non-religious establishments? Was there any difference in their financing, for example? Even if that was not a problem at present, the Monegasque authorities should be aware that it might become one in the future.

42. Mr. ANDO noted that open-air meetings were subject to police approval (para. 154). Why open-air meetings, in particular? What procedure had to be followed to hold an open-air meeting, and was permission ever refused? Was there any possibility of judicial review of such a refusal?

43. The "interpretative declaration" quoted in paragraph 155 was worded vaguely and was tantamount to a reservation in respect of articles 21 and 22 of the Covenant (right of peaceful assembly and freedom of association). The issues mentioned, including territorial integrity, prevention of the disclosure of confidential information and guarantees of the authority and impartiality of the judiciary, were very wide-ranging. Was there any case law which would show the Committee how such issues were dealt with in Monaco?

44. Monaco had both a National Council and a Communal Council, which were elected by the same electorate but for different lengths of time (para. 196). Why did such a small country need two parliamentary institutions? If their mandates were clearly separate, why did article 80 of the Constitution state that there was no incompatibility between them?

45. Why did the Monaco delegation refer to its own population as a "national minority"? The Committee's general comment on article 27 of the Covenant made it clear what it understood by the term "national minority".

46. Mr. SACOTTE (Monaco), replying to a question from Mr. Klein on paragraph 94 of the report, said that only Monegasque nationals served their entire prison sentence in Monaco. The prison in Monaco was very small, with only a small exercise yard and gymnasium, and no opportunities for prisoners to work. It was mainly used for preventive detention or for prisoners serving short sentences. Those serving longer sentences were transferred to prisons in France, where they were subject to French prison regulations (which prison they were held in, the work they had to do, etc.). However, the Monegasque authorities retained the right to reduce their sentences or to grant a pardon or amnesty, whatever the citizenship of the offender.

47. Members had asked about the term "exile" (bannissement) (para. 104). A person could be exiled only by order of a court. Refoulement could be authorized by a minor administrative decision, while expulsion required a ministerial decree. No banishments had been ordered for many years, although the penalty remained on the statute book.

48. The statement in paragraph 136 that there was no provision for compensation for miscarriages of justice was incorrect. In fact, there was a comprehensive procedure of judicial review (reprise de procès).

49. The only restrictions on the freedom of the press (para. 151) related to the responsibilities of the press towards individuals, i.e. cases of defamation or libel. In practice, those restrictions had never been applied, since the only magazines published in Monaco were trade journals and two rather dull weeklies.

50. To his knowledge, no children had ever been permanently abandoned in Monaco (see paragraphs 181 and 182). In one case some years earlier, a mother had abandoned her child, but she had contacted the authorities soon afterwards. A child abandoned on the territory of Monaco would be entitled to Monegasque citizenship if the parents could not be traced.

51. Mr. FAUTRIER (Monaco) said that the issue had also been raised in the Committee on the Rights of the Child, but no such cases of abandonment had ever occurred.

52. Mr. SACOTTE (Monaco), replying to Mr. Vella's questions, said that the Monegasque legal system was modelled on the French system, embodying the principles of the Code Napoléon. Cases were prepared by an investigating judge (juge d'instruction) and heard by the presiding judge (président du tribunal) in the presence of the parties - the public prosecutor (from the ministère public), the party claiming damages (partie civile) and the accused (inculpé). A suspect (personne arrêtée) arrested by the police on suspicion of committing an offence could be detained for a non-extendable maximum period of 24 hours before being brought before a court. The suspect had the right to remain silent, but was not formally informed of his/her rights by the police.

53. No access to a lawyer was granted until the suspect appeared before a court. Of course, Monaco was a small place and, if the suspect were a Monaco resident, his/her lawyer might well hear about the arrest unofficially. If a suspect complained of a medical problem, a physician from the prison service would be summoned, rather than the suspect's own physician.

54. Most court cases were heard in public but, exceptionally, some were heard in camera, including cases involving minors or delicate family matters, cases of alleged rape or those likely seriously to affect public morals (see paragraph 115). During his 10 years as President of the Court of Appeal, he had never ordered a case to be heard in camera. Divorce and child custody cases were heard in chambers (en chambre du conseil) in the presence of the parties and their lawyers, but were not open to the public.

55. Regarding the criteria for suspending the presumption of innocence in criminal proceedings (para. 116), he said that there was no legal definition of the level of proof required, but that in practice the threshold was fairly high.

56. In cases where a suspect was arrested in flagrante delicto, the facts were clear, there was no need for a long investigation, and the suspect was brought before the public prosecutor immediately. He/she was then given the choice of going before the court immediately or having at least three days to consult a lawyer and prepare his/her defence. If the suspect had not been

arrested in flagrante delicto, there was an automatic delay while the investigating judge conducted the investigation, but the accused or his/her lawyer could, nevertheless, ask for a further delay of up to eight days before the court hearing. That right was most often invoked when an accused person had changed lawyers and the new one needed to become familiar with the case. In all cases, the lawyer for the defence received the case file at least 48 hours before the accused appeared before the investigating judge.

57. Witnesses were not cross-examined by the defence or prosecution lawyers, as in the Anglo-Saxon system of law. Instead, all questions were asked by the investigating judge or the presiding judge (i.e. the president of the court). However, any party to the case - the accused or his/her lawyer, the party claiming damages or the public prosecutor - could ask the judge to put a specific question to the witness. The judge could refuse to put the question, but must state the reason for his/her refusal, and in many cases such refusal had been overturned by the Court of Appeal.

58. Witnesses testified on oath, but accused persons were not required to take an oath, which meant that they could not be prosecuted for perjury (see paragraph 131). Of course, if a convicted person was found to have lied, the sentence they received would be increased accordingly.

59. Mr. FAUTRIER (Monaco) said that, while Roman Catholicism was the most widely practised religion in Monaco, other churches operated without restriction. No statistics concerning religious practices were compiled. There was a synagogue, an Anglican (Protestant) church and a reformed church. As far as he was aware, there was no problem with cults or other new religions in Monaco.

60. Most State schools were nominally Roman Catholic, but the teachers were not generally monks or nuns. Instruction in the Roman Catholic religion was available at State schools, but only a minority of children took advantage of the opportunity. Non-Catholic children suffered no social disadvantages and there were no restrictions on their receiving religious instruction - for instance, Jewish children could receive instruction from a rabbi.

61. Citizenship was transmitted jure sanguinis: a child gained Monegasque citizenship through his/her father. There was no provision for transmission of citizenship jure soli, i.e. by virtue of having been born in Monaco. There was a category of residents called "children of the country" (enfants du pays), who had been resident in Monaco for many years but were not eligible for Monegasque citizenship. In the 1950s and until the beginning of the 1960s, they had been eligible for citizenship if their family had lived in Monaco for three generations. An increasing number of applications for naturalization were being approved, most of them in respect of enfants du pays or others who were completely integrated into Monegasque society. However, applications were approved at the discretion of the Head of State and there was no automatic right to citizenship. That was a sensitive issue in Monaco at present, but it was possible that naturalization jure soli might be reintroduced at some point in the future.

62. Mr. SACOTTE (Monaco) said that there was no legal definition of the "unfavourable reputation" for which a foreigner might be expelled from Monegasque territory (see paragraph 106). Foreigners of all nationalities could be expelled. In theory, the decision to

expel a foreigner could be contested, but the Supreme Court had declared itself incompetent to decide such issues. New regulations, currently in preparation, would require the authorities to state the reason why a foreigner was to be expelled.

63. Mr. FAUTRIER (Monaco) said that, in practice, there were no restrictions on freedom of assembly, despite the apparently strict provisions of article 29 of the Constitution. Peaceful demonstrations and open-air meetings took place without restriction.

64. Mr. SACOTTE (Monaco) said that the authorities had provided chairs for elderly participants in a demonstration about housing rights some months earlier.

65. Mr. FAUTRIER (Monaco) said that children of all nationalities resident in Monaco were entitled to free State education up to the age of 16 years (see paragraph 175). The authorities were anxious to maintain a pluralist tradition in education, and parents therefore had the choice of sending their children to a private school.

66. Monaco had submitted statistics on the employment of children to the Committee on the Rights of the Child. Children under 16 were allowed to work only in family businesses, and their employment was subject to the usual regulations governing hiring, employment contracts, inspection by labour inspectors, etc. Such employment was, in any case, rare, and generally took place during school holidays.

67. Mr. SACOTTE (Monaco), replying to Mr. Vella's question about detention in police custody, said that during the non-extendable maximum period of 24 hours there were no special guarantees for suspects; relatives need not be informed, and no lawyer need be provided. Additional safeguards should perhaps be provided. The authorities were subjected to conflicting pressures, from those wishing to extend the 24-hour period and from those seeking additional safeguards. As in the French system of domestic law, the power to order pre-trial detention lay with the investigating judges, of whom there were currently only two in Monaco. An order for detention followed an ex parte hearing before the investigating judge, in the presence of a lawyer, who must receive the case file at least 48 hours beforehand. Orders by the investigating judge could be appealed, but custody orders were not necessarily open to appeal by a party claiming damages. The criteria for making custody orders were not specified by statute, but were the same as in France.

68. Regarding minority rights, the main linguistic minority in Monaco was made up of speakers of Monegasque, a language spoken by very few people, although it was taught in schools. Among recent winners of the annual prize for achievement in the language was a Japanese pupil. Monegasque was not used for any official purposes, the official language of the Principality being French, a situation which did not give rise to any problems.

69. Replying to Ms. Chanet's question about religious minorities, he said Muslims were the only group with no place of worship of their own. There were no figures available for the number of Muslims resident in Monaco, but the group included permanent residents and even some with Monegasque citizenship. If a request was made for a Muslim place of worship, it would be met.

70. Mr. FAUTRIER, replying to Mr. Henkin's question about expulsions from the Principality, explained that persons subject to expulsion orders were simply taken to the French border, so there was no risk of them being sent back to a country where torture was practised. There was certainly some economic imbalance in religious teaching, because instruction in the Roman Catholic faith was freely available in schools. Other religions could be freely taught by the religious groups concerned, but he did not know whether parents were asked to make a contribution.

71. Mr. SACOTTE (Monaco), replying to Mr Rivas Posada's question concerning the grounds for expulsion, said that no grounds had to be stated and there was no appeal against expulsion orders. Draft legislation concerning the grounds for administrative acts, was being prepared and would provide for appeals against such orders to the Supreme Court. As for the relationship between the State and non-Catholic schools, Monaco had no private non-Catholic schools at present, but there was nothing to prevent such schools being established if there was a demand for them.

72. Mr. FAUTRIER (Monaco) pointed out that some private schools offered the ordinary curriculum. Such schools gave the public a choice between public and private education. Other private educational institutions, such as nursery schools, were publicly subsidized because they provided a public service. There was also the option of private university education at the University of Southern Europe, subsidized by the Principality, at which courses were taught in English. The privately-run International School, associated with the international school in Geneva, was also publicly subsidized; it provided instruction mainly in French.

73. Mr. SACOTTE (Monaco) said he shared the Committee's concerns about Monaco's reservations and interpretative declarations, some of which should be withdrawn or restricted. When a provision of Monegasque law resembled a provision of the Covenant, the Monegasque statute ought to be modelled on the Covenant, and there was no need for wide-ranging reservations or interpretative declarations.

74. Mr. FAUTRIER explained that the casino was still a major employer, but not a significant contributor to the State budget; its contribution was now only about 3 per cent of the budget.

75. The dual mandate, to which Mr. Ando had referred, had a long history in Monaco. Since the eleventh century, the commune, based on the seigneurie, had traditionally been the centre of local administration, dispensing grants and social benefits to the local population. The Communal Council (Conseil communal) operated on a somewhat different basis from the Parliament. The two mandates could in theory be combined, according to article 80 of the Constitution. There had been some public debate on the issue, with one political party calling for the separation of local and State government.

76. Mr. LALLAH returned to the question of detention in police custody. What did the police do during the 24-hour period: did they question the suspect or take a statement from him, and what use did they make of their inquiries during that period? The Committee had always held, for good reason, that a suspect had a right to legal representation from the moment of arrest. He queried the position of detainees under article 9 (4) of the Covenant. If a suspect was

detained for more than 24 hours, surely he should be entitled to have a lawyer seek a court order for his release? During the trial, did counsel for the accused have the right to question prosecution witnesses directly? Did counsel for the accused have access to a complete record of all the procedures carried out by the investigating judge and by the police, so that he could defend his client properly? Concerning liberty of the subject, in France there was now a juge des libertés, which dispensed the investigating judge from the double duty of having to conduct inquiries and also decide whether the accused should be granted bail. To comply with the Covenant, bail should normally be granted.

77. Mr. KLEIN, referring to paragraph 94 of the report, asked who would be responsible if a prisoner from Monaco transferred to France to serve his or her sentence was ill-treated while in France. Did the French prison administration act on behalf of Monaco? If both States were parties to the Optional Protocol to the Covenant, against which State would an individual complaint be directed?

78. Mr. SACOTTE (Monaco), replying to Mr Lallah's question, said that within the 24-hour period the police had to take a written statement from the suspect and seek an explanation of the incident. At the same time, the police might conduct inquiries of their own, including interviewing witnesses and taking statements from them. At the end of the 24-hour period, an initial case file would be prepared, setting out the facts as known and including statements by the suspect and witnesses. No lawyer could be present during the 24-hour period. All the relevant dates had to be indicated in the police file sent to the public prosecutor. Thus, if a suspect was detained for more than 24 hours, the procedure would be declared null and void and the detainee released, and disciplinary or judicial action would be taken against the police for the offence of arbitrary detention. The investigating judge had to decide, when he received the police file, whether to charge the suspect or dismiss the case. If charged, the accused would be brought to trial before a bench consisting of a presiding judge and two other judges. The accused could call as many witnesses as he wished. An accused who had no lawyer of his own would be told, as soon as he was due to appear in court, of his right to have a lawyer assigned to him free of charge, on a rotating basis from among members of the Bar. The lawyer would then have access to all documents pertaining to the case, including the findings of any searches, inquiries or expert reports, at least 48 hours, and usually one week, before the accused appeared in court. There were no juges des libertés in Monaco, because the members of the judiciary were so few in number. As for the situation of Monegasque prisoners in French prisons, it was for the French authorities to respond to any complaints of ill-treatment. It would not occur to Monegasque prisoners to complain to Monaco, and no such complaint had ever been received. However, if the Monegasque authorities were to receive a complaint, they would take up the matter with the French authorities. Applications for the remission of penalties or for the release of prisoners were dealt with in Monaco.

79. The CHAIRPERSON, concluding the debate, expressed his appreciation to the delegation for its frank replies to questions and for the timely submission of the initial report. The report was, however, somewhat sketchy, and he hoped that the next one would be more detailed. The reporting procedures prescribed for States parties to the Covenant were designed to ensure that members of the Committee had enough information to assess the human rights situation in the country. It was not sufficient merely to describe the legal provisions in force there; the Committee must be told how they were implemented in practice. The Committee had

several concerns about Monaco. The first related to its reservations and interpretative declarations concerning provisions of the Covenant. He was glad to learn that the Government of Monaco was considering withdrawing them. Secondly, the legal status of the Covenant under Monegasque law was unclear. The Committee had been told that it had legal force within the domestic order; did that mean that it took precedence over domestic law? It had also been told that on one occasion the Supreme Court had given effect to the Covenant by declaring a Monegasque law invalid, but that did not seem to be required by the Constitution. Women in Monaco had formal equality with men under the law, but no figures had been given for their representation in public life and in various occupations, except in replies to questions by the Committee. In addition, there was a discrepancy between the minimum legal ages for marriage applicable to boys and girls.

80. Suspects had no right to a lawyer during the first 24 hours after arrest, and that was a matter of great concern because it was impossible to be sure, during that period, that the suspect's rights were not violated. The delegation should therefore draw the Government's attention to the requirements of article 9 of the Covenant.

81. He was glad to learn that compensation could now be obtained for wrongful conviction, in accordance with article 14 of the Covenant. However, it was a matter of concern that expulsion could be ordered without a statement of reasons: that was a breach of natural justice and of article 12 of the Covenant.

82. It was refreshing to learn that many obsolete provisions of Monegasque law were being reviewed. He urged the delegation to ensure that that process was expedited, so that Monaco's law conformed fully to the Covenant by the time of its next report.

83. The delegation had stated that the report could only be made public following its submission to the Committee. However, the report should have been made available to the public as soon as it was submitted, if not earlier, so that non-governmental organizations could comment on it. He hoped the next report would be published at the proper time.

The meeting rose at 6.05 p.m.